

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

NATHANIEL JONES,

Plaintiff,

v.

SHERIFF JOHN TIREY, et.al.,

Defendants.

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CV 03-J-90-S

FILED
MAY 17 AM 11:46
U.S. DISTRICT COURT
N.D. OF ALABAMA
ENTERED
MAY 17 2004

MEMORANDUM OF OPINION

The magistrate judge filed a report and recommendation on March 1, 2004, recommending the following:

(1) that the plaintiff's First, Sixth, and Fourteenth Amendment access to court claims; Fourteenth Amendment excessive force claims; Fourteenth Amendment denial of due process claims in connection with his disciplinary segregation and visitation privileges; Ninth Amendment claims; First Amendment Freedom of Religion and Right to Redress Grievances against claims all defendants; and all claims against defendant Carey Scruggs be DISMISSED for failing to state a claim upon which relief can be granted pursuant to 28 U.S.C. § 1915A(b)(1) and/or (2);

(2) that plaintiff's request for injunctive relief be deemed MOOT;


(3) and that plaintiff's Eighth Amendment excessive force claim against defendant Tirey, Eighth Amendment inadequate medical care claims against DeJesus and Wise, Eighth Amendment denial of medical care claim against defendant Tirey, and Eighth Amendment conditions of confinement claims against defendants Tirey, DeJesus, Wise and McCluskey be REFERRED to the magistrate judge for further proceedings.

Plaintiff filed objections to the report and recommendation on May 5, 2004.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, the Court is of the opinion that the magistrate judge's report is due to be and is hereby ADOPTED and the recommendation is ACCEPTED. Accordingly, plaintiff's First, Sixth, and Fourteenth Amendment access to court; Fourteenth Amendment excessive force; Fourteenth Amendment denial of due process in connection with his disciplinary segregation and visitation privileges; Ninth Amendment and First Amendment Freedom of Religion and Right to Redress Grievances against all defendants; and all claims against defendant Carey Scruggs are due to be dismissed pursuant to 28 U.S.C. § 1915A(b)(1) and/or (2). Plaintiff's request for injunctive relief is due to be deemed MOOT. Finally, plaintiff's Eighth Amendment excessive force claim against defendant Tirey; Eighth Amendment inadequate medical care claims against DeJesus and Wise; Eighth Amendment denial of medical care claim against defendant Tirey; and Eighth Amendment conditions of confinement claims against defendants Tirey, DeJesus, and Wise are due to be referred to the magistrate judge for further proceedings.

An appropriate order will be entered.

DATED this 17 day of May, 2004.



IRGE P. JOHNSON
UNITED STATES DISTRICT JUDGE